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David A. George

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EXAMINER

MACILWINEN, JOHN MOORE JAIN

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,755	Applicant(s) GEORGE ET AL.	
	Examiner John M. MacIwinen	Art Unit 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,31,33-35 and 37-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,31,33-35,37-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/24/2009 and 5/20/2009 have been fully considered but they are not persuasive.
2. Applicant argues in Arguments file 5/20/2009, on pages 8 – 10 that the cited art does not “have the purpose of the present invention” and that utilizing the teachings of the cited art would “change the purpose of [the] two references”. Applicant's arguments, unrelated to the pending claim language, and unsupported by citations, are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.
3. Applicant continues, on page 8, by arguing that neither Nagar nor Lee teaches “. . . logging said dialog, by storing in a memory, predetermined data related to at least one of said inbound request . . .”. Applicant also argues on page 9 that the cited prior art does not teach “. . . thereby capturing substantially an entirety of dialog with said network node . . .”. Applicant's arguments are not persuasive as said language does not appear in the currently pending claims as a result of Applicant's Preliminary Amendment filed 6/24/2009.
4. Applicant argues on page 10 that “Nagar is not enhanced by” the teachings of Lee and that the Examiner has failed “to consider the claimed invention as a whole.” Applicant's unsupported allegations are not persuasive.

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5. Applicant's allegation that "there would be no reason to modify Nagar" is similarly unpersuasive; furthermore, motivation to modify the teachings of Nagar has been provided in the prior Office Actions; Applicant has failed to respond to said motivation.

Response to Amendment

6. The Examiner notes that in Applicant's 6/24/2009 Preliminary Amendment, the language

"analyzing said dialog to measure at least one parameter related to said dialog;
and"

contains both underlining, to indicate newly added limitations, as well as strikethrough, to indicate removed limitations. As this claim language had the underlining added 5/20/2009 and the strikethrough more recently added on 6/22/2009, it is assumed that the most recent markup (the strikethrough) provides the most pertinent guidance for interpreting the claim language. Future failure to comply with MPEP 1.121 will result in a Notice of Non-Compliance.

Specification

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter for the reasons given below in the 35 USC 112 written description rejection. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1, 47 and 50 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Said claims recite "outbound responses for any of a second node" and where said second node is "unrelated to said first node".

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 31, 37 – 39, 47, 48, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagar et al. (US 6,604,143 B1), hereafter Nagar, in view of Lee et al. (US 2002/0178381 A1), hereafter Lee.
12. Regarding claim 1, Nagar shows a method of capturing dialog on a computer network, said method comprising:

establishing contact, based on an initial access request to a first network node, with an intermediary node so that a subsequent dialog is directed through said intermediary node by causing requests inbound to said first network node to be directed to said intermediary node and causing responses outbound from said first network node, as responding to said inbound requests, to be directed to said intermediary node, thereby capturing, in said intermediary node, substantially an entirety of a dialog with said first network node (Fig. 3, col. 4 lines 61 – 66, col. 5 lines 48 - 61, col. 7 lines 15 - 60),

said network address of said intermediary node also being added to inbound request and outbound responses for any of a second node in said network, unrelated to said first node, that is visited during said dialog, thereby additionally directing a dialog with said second node through said intermediary node as related to said initial access request (col. 5 line 49 – col. 6 line 67 and Fig. 3, showing that all incoming and outgoing requests are through the proxy server, where the client can contact and be contacted by multiple servers (e.g., the nodes 210 and 212 of Fig. 2).

Nagar does not explicitly show said inbound requests and said outbound responses being directed to said intermediary node by causing a network address of said intermediary node to be added to said inbound requests and to said outbound responses.

Lee shows inbound requests and outbound responses being directed to an intermediary node by causing a network address of said intermediary node to be added to said inbound requests and to said outbound responses ([52], Figs. 5 and 6A).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar with that of Lee in order to insure that both incoming and outgoing messages are routed appropriately through the use of well-understood routing methods such as adding headers (Lee, Figs. 4 and 5).

13. Regarding claim 31, Nagar in view of Lee further show at least one of filtering a content of said dialog; modifying a content of responses in said dialog; logging said of said dialog to a database; analyzing said data in said logging of said dialog by at least one of data mining and statistical analysis; displaying at least a portion of said dialog; and formatting information in said dialog for at least one of logging and displaying said information (Nagar, Fig. 5 and col. 3 lines 40 – 62).

14. Regarding claim 37, Nagar in view of Lee further show wherein said first network node comprises a web server (Nagar, Fig. 3 item 325)

said intermediary node comprises a proxy/surrogate server (Nagar, Fig. 3 item 315)

said initial access request and said inbound requests originate from a user's browser and said outbound response are sent to said user's browser (Nagar, col. 5 line 60 - col. 6 line 12) and

said proxy/surrogate server causes said dialog to be directed through said proxy/surrogate server by adding an address of said proxy/surrogate server to contents of said dialog (Lee, [52], Figs. 5, 6A)

15. Regarding claim 38, Nagar in view of Lee further show adding said address information of said proxy/surrogate server to requests from said user's browser to other

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web servers in said computer network and to responses therefrom, thereby allowing said proxy/surrogate server to additionally capture a dialog between said user's browser and said other web servers (Nagar, col. 3 lines 48 - 62, col. 4 lines 36 - 67).

16. Regarding claim 39, Nagar in view of Lee further show wherein said first network node comprises a first web server on said computer network (Nagar, Fig. 2) and wherein the directing of dialog traffic through said proxy/surrogate server continues automatically until terminated by said user by making a URL selection that has not been modified for said direction through said proxy/surrogate server, including dialog traffic by said user's browser with web servers on said computer network other than said first web server (Nagar, col. 8 lines 30 - 40).

17. Regarding claim 47, Nagar in view of Lee further show an apparatus comprising an interface to receive a request from a first node in a network and to make transmissions using said network (Nagar, Fig. 3 and col. 4 lines 61 - 66, col. 5 lines 48 - 61 and col. 7 lines 15 - 60) ; and

a processor to execute an application program that establishes, based on said request, an intermediary node so that substantially an entirety of a subsequent dialog with said first network node is directed through said intermediary node, by causing a network address of said intermediary node to be added (Lee, [52] and Figs. 5, 6A) to subsequent requests inbound to said first network node and to responses outbound from said first network node as responding thereto,

said network address of said intermediary node also being added to inbound requests and outbound responses for any of a second node in said network, unrelated

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to said first node, that is visited during said dialog, thereby additionally directing a dialog with said second node through said intermediary node as being related to said initial access request (Nagar, Fig. 3 and col. 4 lines 61 - 66, col. 5 lines 48 - 61 and col. 7 lines 15 - 60).

18. Regarding claim 48, Nagar in view of Lee further show wherein said intermediary node comprises a TCP/IP application that serves as a proxy/surrogate server (Nagar, col. 3 lines 31 - 61).

19. Regarding claim 50, Nagar in view of Lee further show a tangible storage medium tangibly embodying a set of computer-readable machine instructions to execute a method of capturing dialog on a computer network, said method comprising

establishing contact, based on an interface to receive a request from a first network node, an intermediary node so that substantially an entirety of a subsequent dialog with said first network node is directed through said intermediary node, by causing a network address of said intermediary node to be added (Lee, [52] and Figs. 5, 6A) to subsequent requests inbound to said first network node and to responses outbound from said first network node as responding thereto,

said network address of said intermediary node also being added to inbound requests and outbound responses for any of a second node in said network, unrelated to said first node, that is visited during said dialog, thereby additionally directing a dialog with said second node through said intermediary node as being related to said initial access request (Nagar, Fig. 3 and col. 4 lines 61 - 66, col. 5 lines 48 - 61 and col. 7 lines 15 - 60).

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20. Regarding claim 51, Nagar in view of Lee further show claim 50 comprising one of:

a standalone diskette or storage medium intended to be inserted into a computer drive to upload said instructions onto a computer;

a memory on a computer as storing instructions currently being executed by said computer;

a memory on a computer as storing said set of instructions as selectively loadable for execution by said computer; and

a memory on a computer storing said set of instructions for selectively being downloaded to another computer or device on said network (Nagar, col. 4 lines 37 – 58 and col. 9 lines 40 – 60).

21. Claims 33, 35, 40, 41, 42, 45 and 46 rejected under 35 U.S.C. 103(a) as being unpatentable over Nagar in view of Lee as applied to claim 1 above, and further in view of Jawahar (US 6,298,256 B1).

22. Regarding claim 42, Nagar in view of Lee show claim 1.

Nagar in view of Lee do not explicitly show where at least one parameter related to said dialog is measured.

Jawahar shows where at least one parameter related to said dialog is measured (cols. 16 and 17)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Jawahar in order to optimize resource utilization (Jawahar, Abstract).

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23. Regarding claim 33, Nagar in view of Lee and Jawahar further show wherein at least one of said at least one parameter that is measured relates to an effectiveness of a web site located at said first network node (Jawahar, col. 16 lines 28 – 40).

24. Regarding claim 35, Nagar in view of Lee and Jawahar further show wherein said modifying allows an interview to be dynamically conducted with a user that contacted said first node (Jawahar, co. 15 line 36 – col. 16 line 7).

25. Regarding claim 40, Nagar in view of Lee and Jawahar further show modifying an outbound response (Lee, [39], Nagar, Abstract) before passing it to a user in order to conduct an interview with the user (Jawahar01, Figs. 9, 12, 13, col. 3 lines 50 – 67, col. 15 line 36 – col. 16 line 7).

26. Regarding claim 41, Nagar in view of Lee and Jawahar further show wherein a user's state during said dialog is determined (Jawahar, cols. 16 and 17).

27. Regarding claim 45, Nagar in view of Lee and Jawahar further show wherein said determining of said user's state comprises determining at least one of: an implied intention of a user, and a confusion of a user (Jawahar, col. 16 and 17).

28. Regarding claim 46, Nagar in view of Lee and Jawahar further show dynamically modifying a content of responses to a user, as based upon determining a user's state (Jawahar, col. 16 and 17).

29. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagar in view of Lee as applied to claim 1 above, and further in view of Plante et al. (US 2002/0161626 A1), hereafter Plante.

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30. Regarding claim 34, Nagar in view of Lee show claim 1.

Nagar in view of Lee not explicitly show wherein at least a portion of said dialog interfaces with a natural language processing module, to allow a context of said dialog to be determined by using said natural language processing module.

Plante shows wherein at least a portion of a dialog interfaces with a natural language processing module, to allow a context of said dialog to be determined by using said natural language processing module ([38-43]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Plante in order to take context data into account when performing analysis, thus improving the analysis results (Plant, [38-43]).

31. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagar in view of Lee and Jawahar as applied to claim 41 above, further in view of Eshghi et al. (US 2002/0165954 A1), hereafter Eshghi.

32. Regarding claim 44, Nagar in view of Lee and Jawahar show claim 41.

Nagar in view of Lee and Jawahar do not show instantiating a state for said user upon entering an interaction by said first initial access request; and accumulating characteristics of a set of attributes as said dialog continues.

Eshghi shows instantiating a state for said user upon entering an interaction by said first initial access request; and accumulating characteristics of a set of attributes as said dialog continues ([25-30, 34]).

It would have been obvious to one of ordinary skill in the art at the time of the

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invention to modify the disclosure of Nagar in view of Lee and Jawahar with that of Eshghi in order to monitor and then improve user performance without requiring user input (Eshghi, [8]).

33. Claims 43 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagar in view of Lee and Eshghi.

34. Regarding claims 43 and 49, Nagar in view of Lee show claims 1 and 47.

Nagar in view of Lee do not show wherein each node in said network that is visited during said dialog, subsequent to said initial access request, is similarly directed through said intermediary node, until a user does one of: manually types in a URL, selects a previously-saved URL from a browser's history file; and selects a saved URL via a selection menu.

Eshghi shows wherein each node in said network that is visited during said dialog, subsequent to said initial access request, is similarly directed through said intermediary node, until a user does one of: manually types in a URL, selects a previously-saved URL from a browser's history file; and selects a saved URL via a selection menu ([34]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee a with that of Eshghi in order to monitor and then improve user performance without requiring user input (Eshghi, [8]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. MacIlwinen whose telephone number is (571) 272-9686. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
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